

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)	
Certification to Conduct Gambling Activities of:)	NO. CR 2013-00500
)	
Patrick W. Kincaid)	FINDINGS, CONCLUSIONS,
Maple Valley, Washington,)	DECISION, AND FINAL
)	ORDER IN DEFAULT
Class III Employee.)	

THE MATTER of the revocation of the certification to conduct gambling activities of Patrick W. Kincaid having come before the Commission on August 8, 2013, the Commission makes the following Findings of Fact, Conclusions of Law, and issues the following Decision and Order:

FINDINGS OF FACT

I.

The Washington State Gambling Commission issued Patrick W. Kincaid certification¹ number 69-34389, authorizing Class III Employee activity.

The Commission issued this certification, which expires on August 28, 2013, subject to the certified employee's compliance with state gambling laws and Commission rules.

II.

On April 1, 2013, then Interim Director David Trujillo issued administrative charges to Patrick W. Kincaid by certified and regular mail. The administrative charges notified Mr. Kincaid that failure to respond would result in the entry of a default order revoking his certification. Mr. Kincaid did not respond to the charges and waived his right to a hearing. Pursuant to RCW 34.05.440, this final order is entered in default.

III.

SUMMARY:

On March 6, 2013, the Snoqualmie Gaming Commission revoked Patrick W. Kincaid's license because he admitted to committing a theft that resulted in a loss to the casino of \$200.

¹ Class III Certification is issued to employees working at tribal Casinos. The certification authorizes similar activities as the Card Room Employee (CRE) license issued to individuals working at commercial house-banked card rooms. By submitting a transfer form and fees, holders of a Class III Certification may convert their certification to a CRE license.

FACTS:

1) A Washington State Gambling Commission Special Agent (agent) was assigned to Patrick W. Kincaid's file to investigate whether he continues to qualify for certification after having his tribal license revoked. The Snoqualmie Gaming Commission (SGC) notified the Washington State Gambling Commission (SGA) of the revocation and provided copies of their Incident Report, a voluntary statement from Mr. Kincaid, surveillance DVD, and letters sent to Mr. Kincaid notifying him of his license status. Even though Mr. Kincaid's license was revoked by the SGC, his state certification remains active. As long as his state certification is active, he could transfer to a different tribal casino or to a house banked card room.

2) The agent reviewed the licensing file and found Mr. Kincaid has only been certified since August 2012.

3) According to the Incident Report that the SGC provided, on December 23, 2012, the SGC received a call regarding Mr. Kincaid stealing \$200 cash from his till at cage window six. A SGC Agent reviewed the surveillance coverage and saw the following:

- 06:25- Mr. Kincaid cashed a customer out and gave them \$1,400. As he was counting out \$1,400 in \$100 bills, he pulled two extra bills out and then put the bills in the back of his top drawer.
- 07:29- Mr. Kincaid reached into the back of his top drawer and crumpled up the two \$100 bills in his right fist. Mr. Kincaid then cashed another guest and kept his right hand folded over the bills. Mr. Kincaid then cleared his left hand, but didn't clear his right hand where the bills were.
- 07:33- Mr. Kincaid locked up his drawer and went on break.
- 07:34- Mr. Kincaid walked onto the casino floor and put his right fist into his right pants pocket.

4) After SGC reviewed the surveillance footage, they decided to interview Mr. Kincaid about the incident.

5) On January 1, 2013, Mr. Kincaid was escorted to the interview room and was advised that the room was being video and audio recorded. When asked why he thought he was there, Mr. Kincaid said maybe because of a badge issue or because he had a \$250 variance on December 23, 2012. When asked about the variance, Mr. Kincaid explained that he was paying a customer \$1,400 and thinks that two bills got stuck together because they were "sticky." SGC confronted Mr. Kincaid and told them they had surveillance that showed him stealing cash from the drawer at window six. At first, Mr. Kincaid denied it, and then admitted that he stole two \$100 bills. When asked why he stole the money, Mr. Kincaid said that another employee had threatened to kill him and his family if he didn't steal for him. Mr. Kincaid said after he stole the money, he met with the employee and gave him the money. Mr. Kincaid said that his debt had been paid and it was a one time thing. Mr. Kincaid described the employee and gave SGC a first name.

6) Mr. Kincaid agreed to fill out a voluntary statement. In his statement, he wrote about the other employee threatening to kill him and his family if he didn't steal for him. Mr. Kincaid wrote: "so I panicked and took the money out of my till that I was working on." Mr. Kincaid also wrote: "I am truly sorry and that I really didn't want to take the money but I was scared for my life and my families [sic] so I took two one hundred dollar bills crumpled them up in my hand and walked out." The statement is signed by Mr. Kincaid and dated January 1, 2013.

7) As part of their investigation, SGC followed up on the threat to Mr. Kincaid. They interviewed an employee who met Mr. Kincaid's physical and name description on January 6, 2013. At the conclusion of the interview, the SGC Agents agreed that the employee had nothing to do with Kincaid's theft.

8) On January 16, 2013, SGC sent Mr. Kincaid a letter as notification that they were seeking to revoke his gaming license.

9) On March 6, 2013, SGC sent Mr. Kincaid another letter regarding the status of his license. The letter states: "After careful consideration of the information presented concerning your license revocation, the Snoqualmie Gaming Commission had made the decision to revoke your Snoqualmie Tribal Gaming License.

Mr. Kincaid has failed to establish clearly and convincingly that he is qualified for licensure, as required by RCW 9.46.153(1). Mr. Kincaid admitted to committing a theft that resulted in a loss to the Snoqualmie casino of \$200. As a result, there are grounds to revoke Patrick W. Kincaid's certification based on the Snoqualmie Tribal/State Compact, RCW 9.46.075(1) and (10), and RCW 9.46.170, and WAC 230-03-085(1) and (8).

VIOLATIONS:

Snoqualmie Tribal/State Compact

Section V.C. of the Tribal-State Compact states the State Gaming Agency may revoke, suspend or deny a State certification for any reason it deems to be in the public interest. These reasons shall include when the holder of certification:

V.C.1. Is determined to be a person who because of prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities used in the conduct of the gaming activities permitted pursuant to this compact.

V.C.2. Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of a Tribal-State Compact.

V.C.4. has demonstrated a willful disregard or failed to comply with the requirements of any gaming regulatory authority in any jurisdiction, including offenses that could subject the individual or entity to suspension, revocation or forfeiture of a gaming license.

RCW 9.46.075 Denial, suspension, or revocation of certification, application, or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein: (The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, certified employee, or anyone holding a substantial interest in the applicant's or certified employee's business or organization: (The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by:

- (a) Prior activities; and
- (b) Criminal record;
- (c) Reputation; or
- (d) Habits.

RCW 9.46.153(1) Applicants and licensees-Responsibilities and duties

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted. The certified employee's pending criminal charges demonstrate that the Class III employee poses a threat to the effective regulation of gambling, creates, or increases

the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities.

Mr. Kincaid has failed to establish clearly and convincingly that he is qualified for licensure, as required by RCW 9.46.153(1). Mr. Kincaid admitted to committing a theft that resulted in a loss to the Snoqualmie Casino of \$200. As a result, there are grounds to revoke Patrick W. Kincaid's certification based on the Snoqualmie Tribal/State Compact, RCW 9.46.075(1), (8), and (10), and WAC 230-03-085(1) and (8).

IV.

CONCLUSIONS OF LAW

The circumstances specified in the Findings of Facts in section III above constitute grounds for the revocation of Patrick W. Kincaid's certification to conduct gambling activities under the authority of the Snoqualmie Tribal/State Compact, RCW 9.46.075, and WAC 230-03-085.

DECISION AND ORDER


The Washington State Gambling Commission HEREBY ORDERS: Patrick W. Kincaid's certification to conduct gambling activities is REVOKED.

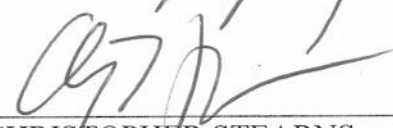
DATED this 8th day of August, 2013.

MIKE AMOS, Chair



MARGARITA PRENTICE,
Vice Chair



KELSEY GRAY, Ph.D.


CHRISTOPHER STEARNS

PRESENTED BY:



Amy B. Hunter, WSBA# 23773
Administrator, Communications and Legal Division
Washington State Gambling Commission

NOTICE: RCW 34.05.440(3) provides that within seven (7) days after service of a default order the party against whom it was entered may file a written motion requesting that the order be vacated and stating the grounds relied upon.

NOTICE: Petition for Judicial Review

You have the right to appeal this Final Order to Superior Court, pursuant to the Petition for Judicial Review provisions of RCW 34.05.542. Any Petition for Judicial Review of this Final Order must be filed with the court and also served upon both the Commission and the Office of the Attorney General within thirty (30) days after the date this Final Order is served upon you.

WAC 230-17-040(3) requires that motions be served on the parties listed below:

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